

**United States District Court**  
**EASTERN DISTRICT OF TEXAS**  
**SHERMAN DIVISION**

HAROLD W. SMITH, III §  
§  
V. § CASE NO. 4:06cv150  
§ (Judge Schneider/Judge Bush)  
WALLACE G. BANKS, Settlement Officer, §  
Internal Revenue Service §

**MEMORANDUM ADOPTING REPORT AND RECOMMENDATION**  
**OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the Report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On December 14, 2006, the Report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that the above titled and numbered cause of action be DISMISSED.

The Court having made a *de novo* review of the objections raised by Plaintiff thereto, is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of Plaintiff are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this Court. It is, therefore,

**ORDERED, ADJUDGED and DECREED** that Defendant's Motion to Dismiss is GRANTED and the above titled and numbered cause of action is **DISMISSED**.

**SIGNED** this 18th day of January, 2007.



MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE